

**IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF  
WEST VIRGINIA, AT MARTINSBURG**

**DALE BERNARD BEARD, JR.,**

**Plaintiff,**

**v.**

**CIVIL ACTION NO.: 3:23-CV-193  
HONORABLE GINA GROH**

**DANIEL E. SMITH, individually  
ADAM ALBAUGH, individually,**

**Defendants.**

**REPORT OF PARTIES' RULE 26(f) CONFERENCE**

1. Pursuant to Fed. R. Civ. P. 26(f) a conference was held between the following parties:

Keith C. Gamble, Esq., Pullin, Fowler, Flanagan, Brown & Poe, PLLC  
*Counsel for the Defendants Daniel E. Smith and Adam Albaugh*

John Bryan, Esq., Law Office of John H. Bryan  
*Counsel for Dale Bernard Beard, Jr.*

2. **Pre-discovery Disclosures.** The parties will exchange initial Fed. R. Civ. P. 26(a)(1)

disclosures by **November 30, 2023**, per the Court's initial order in this matter.

3. **Discovery Plan.** The parties jointly propose to the Court the following discovery plan:

(a) Discovery will be needed on the following subjects:

- Plaintiff believes discovery is appropriate on Plaintiff's claims and damages as alleged in Plaintiff's Complaint, and the nature and extent of the Plaintiff's injuries and damages as to the Defendants.

- The Defendants believe discovery is appropriate regarding Plaintiff's purported damages, as well as Plaintiff's claims regarding liability of these Defendants and any and all other aspects of their claims for liability in this matter.

(b) All discovery commenced in time is to be completed by **August 30, 2024**

(c) Maximum of 40 Interrogatories by each party to any other party.

[Responses due 30 days after service or except as otherwise agreed upon by counsel.]

- (d) Maximum of 40 Requests for Admission by each party to any other party.  
[Responses due 30 days after service or except as otherwise agreed upon by counsel.]
- (e) Maximum of 10 depositions by Plaintiff and 10 depositions by each Defendant.
- (f) Each deposition limited to maximum of 7 hours unless extended by agreement of parties.
- (g) Reports from retained experts under Rule 26(a)(2) due:  
from Plaintiffs by **May 27, 2024**  
from Defendant by **June 27, 2024**  
Rebuttal Plaintiff by **July 26, 2024**
- (h) Supplementation under Rule 26(e) due: **August 2, 2024**
- (i) Discovery of electronically stored information should be handled as follows:

At this time, the parties are not certain regarding the necessity for discovery of electronically stored information. Any electronically stored information that will be sought in the litigation can be produced in its native format in pdf mode by disk or by hard copy, depending on volume. To the extent any party asserts during the course of discovery that it is necessary for electronically stored information to be produced in some other format, the parties agree to mutually work toward a reasonable resolution of any such requests. If the parties are unable to agree and/or disputes arise in the course of discovery regarding electronically stored information, the parties will submit such disputes to the Court.

#### 4. Other Items.

- (a) The parties do not request a conference with the court before entry of the scheduling order.
- (b) The parties request a pretrial conference in **late November of 2024**.
- (c) Plaintiff should be allowed to join additional parties and amend the pleadings until **January 25, 2023**.
- (d) Defendants should be allowed until **January 25, 2023**, to join additional parties and amend the pleadings.
- (e) All potentially dispositive motions should be filed by **October 11, 2024**.

Responses to Dispositive Motions filed by **October 18, 2024**.  
 Replies to Dispositive Motions filed by **October 25, 2024**.

- (f) Motions in Limine should be filed by **November 8, 2024**.  
 Objections to Motions in Limine by **November 15, 2024**.
- (g) Stipulation of Facts should be filed by **November 8, 2024**.
- (h) Biographical Sketches should be filed by **November 15, 2024**.
- (i) Joint Pre Trial Order should be filed by **November 15, 2024**.
- (j) Settlement will be evaluated informally by the parties on or before **September 5, 2024**. If the same is not resolved at said date and time, the parties will mediate this matter by **October 4, 2024**.
- (k) Final lists of witnesses and exhibits under Rule 26(a)(3), Voir Dire, Verdict Form, Special Interrogatories and Jury Instructions should be due from both parties on **November 8, 2024**.
- (l) Parties shall have until **November 15, 2024**, to file objections to witnesses and exhibits provided under Rule 26(a)(3), Voir Dire, Verdict Form, Special Interrogatories and Jury Instructions.
- (m) The case should be ready for trial by **December 2024** and at this time the trial is expected to take approximately four to five days.

5. **Other Matters:** None currently.

Pursuant to L.R. 16.01 (b) and (c), the parties do not believe this case is complex and therefore is not appropriate for monitoring in an individualized and case specific manner. The parties in this matter do not consent to a trial by Magistrate Judge. The parties do consent to alternative dispute resolution processes such as those in L.R. Civ. P. 16.06.

/s/ John H. Bryan (w/ permission)  
 John H. Bryan, Esquire  
 W.Va. State Bar Id. No.: 10259  
**Law Offices of John H. Bryan**  
 411 Main Street  
 PO Box 366  
 Union, WV 24983  
 Telephone No.: (304) 772-4999  
 Facsimile No.: (304) 772-4998  
**Counsel for Plaintiff**

/s/ Keith C. Gamble  
 Keith C. Gamble, Esquire  
 W.Va. State Bar Id. No.: 7971  
**Pullin, Fowler, Flanagan, Brown & Poe**  
 2414 Cranberry Square  
 Morgantown, WV 26508  
 Telephone No.: (304) 225-2200  
 Facsimile No.: (304) 225-2214  
**Counsel for Defendants**